

Lowell

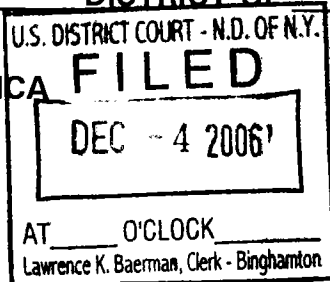
United States District Court

NORTHERN

DISTRICT OF

NEW YORK

UNITED STATES OF AMERICA



CRIMINAL COMPLAINT

Case Number: 3:06-MJ- *367*

MJ Lowe

v.

SHAUN BROWN

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. Between November, 2005 and November, 2006 in Tompkins County, in the Northern District of New York defendant did, knowingly and intentionally use an interstate communications facility, to wit, the internet in order to persuade, coerce and entice a minor under the age of eighteen years to engage in a sexual act; did knowingly and intentionally use an interstate facility, to wit the internet to transmit a threatening communication to a minor across state lines.

in violation of Title 18, United States Code, Section(s) 2422(b) and 875 (b)&(c)

I further state that I am a FBI Special Agent and that this complaint is based on the following facts:

Continued on the attached sheet and made a part hereof: ☒ YES ☐ NO

James T. Lyons, Jr.
SA JAMES T. LYONS, JR.
FEDERAL BUREAU OF INVESTIGATION

Sworn to before me, and subscribed in my presence,

DECEMBER 4, 2006

Date

at

Binghamton, New York

City and State

THOMAS J. MCAVOY, Senior U.S. District Court Judge

Name and Title of Judicial Officer

Thomas J. McAvoy
Signature of Judicial Officer

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

James T. Lyons, Jr., having been duly sworn, states as follows:

1. I have been employed as a Special Agent of the Federal Bureau of Investigation (FBI) for approximately ten years. I am currently assigned to the Albany Field Division, Binghamton, New York Resident Agency. While assigned to the FBI office in Binghamton, New York, I have served as the Affiant in applications for search warrants and requests for interception of electronic and wire communications. I have also participated in a myriad of investigations as an FBI Special Agent, to include matters involving the sexual exploitation of children via computers and the internet. I have made arrests and conducted searches pertaining to these types of investigations.

2. This affidavit contains information for the limited purpose of establishing probable cause to arrest and charge Shaun Brown, date of birth: 01/14/1981, of 86 Bishop Road, Newfield, New York, with violations of using the Internet, a facility in interstate and/or foreign commerce, to persuade, coerce, and entice a minor to engage in sexual conduct; and, interstate transmission of threatening communications, pursuant to Title 18, United States Code, Sections 2422(b) and 875(b)&(c).

3. As this affidavit contains information for the limited purpose of establishing probable cause to arrest and charge Brown, it does not set forth complete facts of all known

information in this investigation. The details listed within this document represent statements, observations, and factual information that have been obtained by law enforcement officers of the Tompkins County Sheriff's Office (TCSO), Ithaca, New York, Highland County Sheriff's Office (HCSO), Hillsboro, Ohio, and disseminated to your Affiant.

4. In early November 2006, your Affiant was contacted by Senior Investigator Derek Osborne, TCSO, Ithaca, New York. Investigator Osborne related he was assisting HCSO in an investigation regarding the victimization of a 14 year old female (hereafter "victim") from Ohio.

5. On or about October 12, 2006, an HCSO investigator interviewed the victim in Ohio. The victim stated, in sum and substance, that in approximately November 2005, she was on the internet in a cheerleading chat room when she began communicating with an individual identified as Shaun (shaun03_2004@yahoo.com). Shaun identified himself as an 18 or 19 year old male who resided in the state of New York. Shaun began sending the victim instant messages via Yahoo instant messenger. The victim communicated with Shaun (via instant messenger) until Shaun's communications became sexual in nature. Shaun asked the victim if she was a virgin and Shaun claimed he was good at performing oral sex. Shaun also sent communications indicating he wanted to rape the victim and look at the victim's hymen. The victim ceased communicating with Shaun. However, during the summer of 2006, the victim was re-contacted by Shaun via the internet. The

victim commenced communicating with Shaun (via instant messenger) and Shaun subsequently demanded that the victim expose her breasts to Shaun via the victim's web camera. Although the victim initially refused, Shaun indicated he knew where the victim lived and Shaun threatened to kill the victim and the victim's family if the victim didn't comply with Shaun's demand. The victim, fearful for her safety and the safety of her family, complied with Shaun's demand and exposed her breasts to Shaun via her web camera.

6. Pursuant to exposing her breasts to Shaun via her web camera, the victim was alerted to a particular MySpace.com web page. The web page contained an image of the victim exposing her breasts. In addition, the web page listed the victim's name, age, and Ohio city in which the victim resides. The victim neither created the web page nor provided consent to any person to create this web page. Pursuant to viewing the MySpace.com web page, the victim printed a hard copy of this web page and provided the printed copy to HCSO investigators.

7. HCSO investigators conducted extensive investigation regarding the MySpace.com web page in which the victim appeared bare breasted. HCSO investigators identified an America Online account which was associated with this MySpace.com web page. The America Online account subscriber was listed as Larry Brown, 86 Bishop Road, Newfield, York. Shaun Brown, date of birth: 01/14/1981, was also identified as residing at 86 Bishop Road, Newfield, New York.

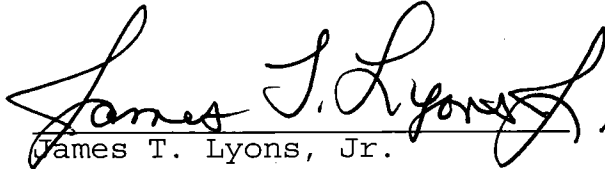
8. On November 9, 2006, TCSO investigators interviewed Shaun Brown at the Tompkins County Sheriff's Office, Ithaca, New York. During the interview, Brown admitted, in sum and substance, that Brown met the victim via the internet. In addition, Brown knew the victim was a minor and Brown coerced the victim to expose her breasts in front of her web camera. When the victim exposed her breasts, Brown took a digital picture of his computer monitor which contained the image of the victim exposing her breasts. Brown transferred the image (victim exposing her breasts) to his computer and Brown created a MySpace.com web page wherein he posted the image of the victim exposing her breasts. Brown created the web page because Brown was angry that the victim was condescending to Brown.

9. On November 9, 2006, TCSO investigators executed a search warrant at Brown's 86 Bishop Road, Newfield, New York residence. During the search, investigators seized several items of evidence from Brown's residence to include a digital camera, a computer, and other computer-related items. An initial review of Brown's computer revealed Brown's hard drive contained numerous images. One of the images identified on Brown's hard drive was the image of the victim exposing her breasts. This image is the same image that was posted on the MySpace.com web page along with the victim's name, age and Ohio city in which the victim resides.

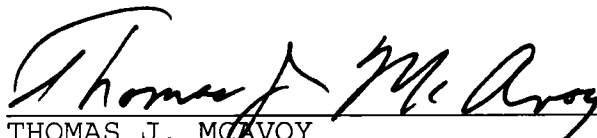
10. A review of Brown's criminal history record revealed that on or about August 13, 2001, Brown pleaded guilty to a New York state misdemeanor offense of Aggravated Harassment for which

Brown received a sentence of one year probation. A review of reports associated with this event revealed Brown sent a threatening e-mail from his home computer to the Ithaca College Admissions Office after Brown was denied enrollment. Brown admitted he sent the e-mail from his home computer and admitted he sent the e-mail to release his anger.

9. WHEREFORE, your Affiant submits that based upon all of the information contained in this affidavit, there is probable cause to believe that Shaun Brown committed violations of Title 18, United States Code, Sections 2422(b) and 875(b)&(c) (using the Internet, a facility in interstate and/or foreign commerce, to persuade, coerce, and entice a minor to engage in sexual conduct; and, interstate transmission of threatening communications).


James T. Lyons, Jr.
Special Agent
Federal Bureau of Investigation

Sworn to and subscribed before
me this 4th day of December, 2006


THOMAS J. MCAVOY
SENIOR UNITED STATES DISTRICT COURT JUDGE
NORTHERN DISTRICT OF NEW YORK